Northwest Territories Human Rights Commission

May 3, 2007

Robert Hawkins
MLA, Yellowknife Centre
VIA FACSIMILE: 873-0276

Dear Mr. Hawkins:

Re.: Human rights and housing for persons with assistive animals

I write further to our discussion yesterday to provide more information about the issue of housing for persons with disabilities who rely on assistive or therapeutic animals.

You inquired on behalf of a constituent who you state is being denied housing in a new accessible building because she has a cat. You stated that your constituent has disabilities that benefit therapeutically from the presence of her cat. The new building would improve your constituent's living conditions because it is designed specifically for persons with disabilities. However, the new building also has a "no pet" rule that is being enforced in her situation. You state that the constituent would rather live in housing unsuitable to her needs than to give up her cat.

Based on the information you've provided, your constituent may have the basis to file a human rights complaint against the landlord alleging discrimination in tenancy on the basis of disability.

Section 12 of the NWT *Human Rights Act* states that a person may not deny to any individual the right to occupy as a tenant any self-contained dwelling unit on the basis of a prohibited ground of discrimination. Section 5 of the *Act* lists the grounds of discrimination, which include disability. Section 1 of the *Act* defines disability to include a condition of mental impairment, a mental disorder, or any degree of physical disability.

There are several human rights cases confirming that a "no pets" rule can have an adverse effect on people with disabilities whose animals are considered assistive animals – such as seeing eye dogs – or that provide a therapeutic benefit to an owner with specific disabilities. In these cases, the animal is not merely a "pet," it is an assistive animal or a therapy utility animal. To deny housing based on a "no pets" rule to a person with a disability that relies on an assistive or therapeutic animal has been found to violate human rights laws in other jurisdictions.

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I have sent you via e-mail two cases that confirm this principle. These cases are illustrative because they do not deal with seeing-eye dogs or assistive animals more commonly known to be linked to specific disabilities. Both cases deal with animals as therapeutic aids for people suffering from depression or high blood pressure.

One of the cases is a residential tenancy decision from Ontario (*Niagara North Condominium Corp. No. 46 v. Chassie (1999) O.J. No. 1201*). Niagara North Condominiums applied to the Ontario Court of Justice for an order directing Mrs. Muriel Chassie to remove her 16-year old cat from her unit. Mrs. Chassie defended against the court action in part by arguing that her cat was medically necessary because she suffered from disabilities – depression and high blood pressure – that benefitted from the presence of her cats. She argued that ordering her to get rid of her cat would constitute discrimination on the basis of disability contrary to the *Ontario Human Rights Code.*

The Court agreed with Mrs. Chassie. Medical documentation confirmed that the emotional well-being Mrs. Chassie derived from her cat was an important component of her treatment for high blood pressure. In addition, the emotional comfort and companionship was also considered medically beneficial to Mrs. Chassie's depression. The medical documentation confirmed that getting rid of her cat would be deleterious to Mrs. Chassie's health. For all these reasons, the Court found that the cat was a "therapy utility animal and that its ouster would constitute discrimination against Mrs. Chassie because of her handicap" (at para. 93).

The second decision had a different outcome. However, it confirms that therapy utility animals are covered by human rights legislation. In *Strumecki v. Capital Regional Housing Corp (No.2) (2005) 54 CHRRD/133,* the BC Human Rights Tribunal dismissed Elmer Strumecki's complaint of discrimination against the Capital Regional Housing Corporation. Mr. Strumecki argued that his disabilities – depression and mitochondrial myopathy – benefitted from the presence of his two dogs. However, the Tribunal found that Mr. Strumecki was not diagnosed with depression and did not provide medical documentation that his dogs were therapeutically necessary for his disability. In fact, Mr. Strumecki had been living without his dogs for a number of years with no negative impact on his disability. In arriving at its decision the Tribunal relied on the Court's decision in the *Niagara Condominium* case.

Although Mr. Strumecki's case was dismissed, both decisions support the argument that when an individual can medically confirm that his or her animal acts as a therapeutic aid and that the absence of that animal would have a detrimental effect on his or her disability, a landlord has the duty to accommodate the individual's disability by allowing the animal to live in the suite. This does not mean that a landlord is expected to allow pets in the building. Human rights cases – including *Strumecki* – distinguish between "pets" and "therapy utility" or "assistive" animals. A landlord can enforce a "no pets" rule and still consider applications from persons with disabilities by requesting medical confirmation that the animal is therapeutically needed for the potential tenant's disability.

I hope that this provides the information you requested. Please contact me if you need further information or clarification. I can be reached at 920-3184.

Sincerely,

Thérèse Boullard
Director

enclosures (via electronic mail)